

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION**

**BLATHE NICOLE SLOUGH,**

**Plaintiff,**

**v.**

**LEGACY HOME HEALTH AGENCY,  
INC.,**

**Defendant.**

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**Civil Action No.**

**NOTICE OF REMOVAL**

Defendant Legacy Home Health Agency, Inc. (“Defendant” or “Legacy”), in the above-styled action, hereby files its Notice of Removal by and through the undersigned attorneys of record. Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, the above-captioned is removed from the 398<sup>th</sup> Judicial District, Hidalgo County, Texas to the United States District Court for the Southern District of Texas, McAllen Division, and as grounds for such removal, Defendant respectfully states as follows:

**I.  
STATE COURT ACTION**

1. On March 4, 2021, Blathe Nicole Slough (“Plaintiff”) filed Plaintiff’s Original Petition in the 398<sup>th</sup> Judicial District Court of Hidalgo County, Texas, styled *Blathe Nicole Slough v. Legacy Home Health Agency, Inc.*; Cause No. C-0858-21-I (the “State Court Action”).

2. In her Petition, Plaintiff claims that Defendant interfered, restrained or denied with her rights under the federal Family Medical Leave Act (“FMLA”) and retaliated against her for exercising her rights by requesting leave under the FMLA. *See Plaintiff’s Original Petition* ¶¶ 22-

23, 25. Plaintiff also alleges sex discrimination pursuant to Chapter 21 of the Texas Labor Code. *See Plaintiff's Original Petition* ¶ 15.

## **II.**

### **PROCEDURAL REQUIREMENTS**

3. Defendant was served with the Original Petition on March 23, 2021. Therefore, this Notice of Removal is timely filed under 28 U.S.C. § 1446(b) within thirty (30) days of the receipt of the initial pleading setting forth the claim for relief.

4. This action is properly removed to this Court, as the State Court Action is pending within this district and division. 28 U.S.C. §§ 1441, 1446(a).

5. Pursuant to 28 U.S.C. § 1446(a) and LR 81, Defendant is attaching a true and correct copy of the entire file or record in the State Court Action, including all process, pleadings, and orders served upon Defendant in this action. *See Exhibit A.*

6. Pursuant to 28 U.S.C. § 1446(d), Defendant will promptly give Plaintiff written notice of the filing of this Notice of Removal and will promptly file a copy of this Notice of Removal with the District Clerk of Hidalgo County, Texas. *See Exhibit B.*

7. Plaintiff's suit involves a federal question. 28 U.S.C. §§ 1331, 1441(a). Specifically, Plaintiff's claims arise under the Family Medical Leave Act, 29 U.S.C. § 1601 *et seq.* Accordingly, Plaintiff has alleged a federal questions and removal to this Court is proper.

8. By filing this Notice of Removal, Defendant does not waive any defenses that may be available to it, including, but not limited to, lack of subject matter jurisdiction, lack of personal jurisdiction, insufficiency of process, insufficiency of service of process, or failure by Plaintiff to state any claim upon which relief may be granted.

**III.**  
**PRAYER**

Wherefore, Defendant removes this action from the 398<sup>th</sup> District Court of Hidalgo County, Texas to the United States District Court for the Southern District of Texas, McAllen Division, so that this Court may assume jurisdiction over this case, as provided by law.

Respectfully submitted,

By: /s/ Andrew Broadaway  
Andrew Broadaway

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**CORNELL SMITH MIERL BRUTOCAO  
BURTON, LLP**

**ATTORNEY FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

I certify that on April 20, 2021, a true and correct copy of this document, *Notice of Removal*, was served on the following counsel of record for Plaintiff via ECF:

Daniel E. Vargas  
324 W. University Drive  
Edinburg, TX 78539  
thevargaslawoffice@gmail.com

By: /s/ Andrew Broadaway  
Andrew Broadaway